## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

WILLIAM KEVIN SPADE,	)
Plaintiff,	) )
VS.	) No. 15-2803-JDT-tmp
SHELBY COUNTY, ET AL.,  Defendants.	) ) )
Dorondamo.	)

## ORDER DIRECTING ENTRY OF JUDGMENT, CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH AND NOTIFYING PLAINTIFF OF APPELLATE FILING FEE

On December 16, 2015, Plaintiff William Kevin Spade, who was, at the time, incarcerated at the Shelby County Criminal Justice Complex in Memphis, Tennessee, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983 and a motion to proceed *in forma pauperis*. (ECF Nos. 1 & 2.)<sup>1</sup> The Court issued an order on January 8, 2016, granting leave to proceed *in forma pauperis* and assessing the civil filing fee pursuant to the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 5.) On August 16, 2016, the Court dismissed the complaint for failure to state a claim but granted leave to amend within thirty days. (ECF No. 8.) Plaintiff was warned that failure to file an amendment would result in the entry of judgment and assessment of a "strike" pursuant to 28 U.S.C. §1915(g). (*Id.* at 12.)

<sup>&</sup>lt;sup>1</sup> The complaint was signed by three additional Plaintiffs, but only Spade filed an *in forma pauperis* affidavit. (ECF No. 1 at 4.) On January 7, 2016, the Court severed the claims of the other three Plaintiffs and directed the Clerk to open a separate case for each of them, leaving Spade as the only Plaintiff in this case. (ECF No. 4.)

Plaintiff's copy of the order of dismissal was returned undeliverable on August 30, 2016,

marked "release." (ECF No. 9 at 2.) Plaintiff also has not filed an amended complaint, and the time

within which to do so has expired. Therefore, judgment will be entered in accordance with the

August 16, 2016, order of dismissal.

It is CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate

Procedure 24(a), that an appeal would not be taken in good faith.

A certification that an appeal is not taken in good faith does not affect an indigent prisoner

plaintiff's ability to take advantage of the installment procedures contained in § 1915(b). See

McGore v. Wrigglesworth, 114 F.3d 601, 610-11 (6th Cir. 1997), partially overruled on other

grounds by LaFountain v. Harry, 716 F.3d 944, 951 (6th Cir. 2013). McGore sets out specific

procedures for implementing the PLRA, 28 U.S.C. §§ 1915(a)-(b). Therefore, Plaintiff is instructed

that if files a notice of appeal and wishes to take advantage of the installment procedures for paying

the \$505 appellate filing fee, he must comply with the procedures set out in McGore and

§ 1915(a)(2) by filing an updated in forma pauperis affidavit and a current, certified copy of his

inmate trust account for the six months immediately preceding the filing of the notice of appeal.

For analysis under 28 U.S.C. § 1915(g) of future filings, if any, by Plaintiff, this is the first

dismissal of one of his cases as frivolous or for failure to state a claim. This "strike" shall take effect

when judgment is entered. See Coleman v. Tollefson, 135 S. Ct. 1759, 1763-64 (2015).

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd

JAMES D. TODD

UNITED STATES DISTRICT JUDGE

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